

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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**IN RE: NEW ENGLAND  
COMPOUNDING PHARMACY, INC.  
PRODUCTS LIABILITY LITIGATION**

**MDL No. 1:13-md-2419-FDS**

**This Document Relates To:**

**All Actions**

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**MDL Order No. 5**

April 11, 2013

**ORDER (1) ESTABLISHING BRIEFING PROCEDURES AND SCHEDULE  
CONCERNING CHAPTER 11 TRUSTEE'S TRANSFER MOTION AND CERTAIN  
MOTIONS TO WITHDRAW THE REFERENCE AND (2) APPROVING FORM AND  
MANNER OF NOTICE OF THE CHAPTER 11 TRUSTEE'S TRANSFER MOTION**

The Chapter 11 Trustee has moved for an order to transfer to this Court, pursuant to 28 U.S.C. §§ 157(b)(5) and 1334, various personal injury and wrongful death cases pending in state and federal courts (the “Pending Actions”) as identified on Exhibit A to the memorandum in support of the trustee’s transfer motion (as amended, the “Schedule of Pending Actions”).<sup>1</sup>

For good cause shown, the Court hereby orders the following notice and briefing procedures and schedule:

1. **Briefing Procedures for the Trustee’s Transfer Motion**

- a. Any party, whether or not a party to a proceeding currently before this Court, who now or in the future may be subject to or affected by the relief requested in the Trustee’s transfer motion, is hereby permitted to intervene in order to respond to

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<sup>1</sup> The Trustee filed an amended schedule on March 15, 2013, that included additional pending actions.

the relief sought in that motion. Any such party who is located outside of Massachusetts is hereby permitted to be represented by counsel in good standing in the state in which the party is located without the prior submission of an application for admission *pro hac vice* or retention of local counsel.

2. Briefing Schedule for the Trustee's Transfer Motion and the Motions to Withdraw

- a. Any opposition to the Trustee's transfer motion shall be filed by May 2, 2013.
- b. Any reply memoranda to oppositions to the Trustee's transfer motion shall be filed by May 13, 2013.
- c. Any opposition to the motion of GDC Properties Management, LLC to withdraw the reference of certain of the adversary proceedings (Nos. 13-10226, 13-10227, 13-10228, and 13-10229) from the United States Bankruptcy Court for the District of Massachusetts shall be filed by May 2, 2013.
- d. Any reply memoranda to objections to the GDC transfer motion shall be filed by May 13, 2013.

3. Notice Procedures for the Trustee's Transfer Motion

- a. Within five business days of entry of this order, the Trustee shall serve upon the parties identified in subparagraph (b) below a notice substantially in the form attached hereto as Exhibit 1 (the "Pending Actions Notice"), along with a copy of this order, the Trustee's transfer motion, the supporting memorandum to that motion, and the Schedule of Pending Actions (but excluding Exhibits B and C to the memorandum) (the "Related Documents");
- b. The Pending Actions Notice and Related Documents shall be served upon the

following:

- (1) counsel for plaintiffs in the Pending Actions who have not received notice of the Trustee's transfer motion and supporting memorandum by a CM/ECF Notice of Electronic Filing;
- (2) counsel for defendants in the Pending Actions who have not received such a CM/ECF Notice;
- (3) defendants in the Pending Actions, to the extent the identity of counsel is unknown;
- (4) all counsel who have filed a notice of appearance in the Multidistrict Litigation pending in this Court, Case No. 13-2419, who have not received such a CM/ECF Notice;
- (5) all counsel who have filed a notice of appearance in the consolidated action *Erkan v. New England Compounding Pharmacy, Inc. et. al.*, pending in this Court, Case No. 12-12052, who have not received such a CM/ECF Notice;
- (6) all counsel who have filed a notice of appearance in the action pending before the Judicial Panel on Multidistrict Litigation, Case No. 2419; and
- (7) all counsel who have filed a notice of appearance in the Debtor's bankruptcy case pending in the Bankruptcy Court, Case No. 12-19882 (the "Bankruptcy Case").

4. In lieu of serving the Related Documents, the Trustee may refer parties to the

website maintained by the claims agent retained in the debtor's bankruptcy case at <http://www.donlinrecano.com/cases/caseinfo/necp> and offer to mail paper copies, upon request.

5. The Trustee shall cause the Trustee's transfer motion, the supporting memorandum, memorandum, the Schedule of Pending Actions, this order, and the proposed Transfer Order to be published on the website maintained by the claims agent in the bankruptcy case at <http://www.donlinrecano.com/cases/caseinfo/necp>.

**So Ordered.**

Dated: April 11, 2013

/s/ F. Dennis Saylor  
F. Dennis Saylor IV  
United States District Judge

**EXHIBIT 1**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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**NOTICE OF CHAPTER 11 TRUSTEE’S MOTION TO TRANSFER  
PERSONAL INJURY TORT AND WRONGFUL DEATH CASES  
TO THIS COURT PURSUANT TO 11 U.S.C. §§ 157(b)(5) AND 1334**

**PLEASE TAKE NOTICE** that on March 10, 2013, Paul D. Moore, the Chapter 11 Trustee for the Estate of New England Compounding Pharmacy, Inc. (the “Debtor”) filed a motion in the multidistrict litigation involving NECC pending in the United States District Court for the District of Massachusetts for entry of an order transferring to the Court the personal injury and wrongful death cases identified on Exhibit A to the memorandum in support of the Motion (as amended, the “Schedule of Pending Actions”);

**PLEASE TAKE FURTHER NOTICE** that on March 15, 2013, the Trustee filed an amended Schedule of Pending Actions that included additional actions;

**PLEASE TAKE FURTHER NOTICE** that on April 11, 2013, the Court entered an order establishing and approving certain procedures that motion as it relates to the Schedule of Pending Actions;

**PLEASE TAKE FURTHER NOTICE** that any oppositions must be filed by May 2,

2013, and must be in writing, conform to the Local Rules of the Court, and be filed through the CM/ECF system;

**PLEASE TAKE FURTHER NOTICE** that the Trustee's motion, the supporting memorandum, the exhibits to the memorandum, and proposed order relating to the motion are available on the website maintained by the claims agent retained in the Debtor's bankruptcy case at <http://www.donlinrecano.com/cases/caseinfo/necp> and/or by requesting copies of same from the undersigned counsel; and

**PLEASE TAKE FURTHER NOTICE** that, unless written oppositions to the motion are filed with the Court by May 2, 2013, there may not be a hearing and the motion may be approved.

F. Dennis Saylor IV  
United States District Judge

Dated: April 11, 2013